Supreme Court, U.S.
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No. 86-1094

IN THE
Supreme Court of the United States
OCTOBER TERM, 1986

JON TOM STATON,
Petitioner,

v.

JAMES K. MAYES, MOODY WADE, MIKE MOORE and INDEPENDENT SCHOOL DISTRICT NUMBER 20 OF MUSKOGEE COUNTY, OKLAHOMA,
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

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RESPONDENTS BRIEF IN OPPOSITION

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RESPONDENTS BRIEF IN OPPOSITION

Respondent prays that the Petition for a Writ of Certiorari be denied for the reasons hereinafter stated.

STATEMENT OF THE CASE

Petitioner's Statement of the Case (authored by Petitioner, who became a lawyer after leaving the School District) has left some inferences and inaccuracies which Respondent will attempt to clarify in its statement following.

The Board of Education of Independent School District No. 20 of Muskogee County, Oklahoma, hereinafter referred to as "School District", employed the Plaintiff,

Jon Tom Staton (hereinafter referred to as "Staton"), as Superintendent of Schools in 1967. During the next five and one-half (5½) years considerable turmoil in the school system resulted from the methods employed by Staton in his attempts to make substantial changes in the operation of the schools which ultimately resulted in his removal on February 5, 1973. This resulted in a Complaint being filed in the United States District Court for the Eastern District of Oklahoma in Case No. 73-112. The Trial Judge (Fred Daugherty) entered a Memorandum Opinion on March 31, 1975, dismissing the cause. This was appealed by Staton to the United States Circuit Court for the Tenth Circuit resulting in the opinion on May 9, 1977, appearing at page 25a in the Appendix to Petitioiner's Brief. That Court stated:

> Under Fourteenth Amendment due process principles we must hold that the adverse determination on the charges against Dr. Staton is invalid. Accordingly, we vacate the judgment of the Trial Court and remand with directions that the former determination on the charges be declared invalid and that it should be expunged.
>
> The Board of the Defendant District may then consider, if it wishes, making a new finding on the charges to determine whether the earlier removal on them was proper. If a new decision on the charges is entered by the Board and challenges to it are made, disposition by the Trial Court will be withheld to permit completion of any state appeal or review proceedings. On conclusion of such proceedings, the Trial Court may then consider whether further equitable or compensatory relief may be proper.

That Court further stated in a footnote to that opinion as follows:

> We have noted that the contracts between the Board and the Plaintiff have expired and hence a reinstatement order would be inappropriate.

Upon remand the Trial Court issued its Order on January 12, 1978, to carry out the mandate of the Circuit Court.

In the meantime on June 14, 1977, Staton filed a new Complaint in the United States District Court for the Eastern District of Oklahoma in Case No. 77-186-C in which the allegations are practically identical to the allegations in the earlier Complaint. Both cases were consolidated for trial.

By the time the Trial Court entered its Order on January 12, 1978, the controversy in the school system had subsided and it was operating smoothly under the new superintendent. Accordingly, the School District informed the Court that it determined not to proceed with the removal procedures against the Plaintiff. The School District then admitted liability for the balance due on the unexpired portion of Plaintiff's contract in the amount of $32,291.61 and tendered that amount to Plaintiff which was refused. The Trial Judge entered its Order on September 21, 1979, directing that the Pretrial Order which had not been signed by Plaintiff or Plaintiff's attorney be filed, specifically finding that it correctly set forth all Plaintiff's contentions and Defendant's contentions as respectively stated at the pretrial conference of July 18, 1979. The Court's Order and the Pretrial Order are included in the Appendix at pages 5a and 1a respectively.

At the subsequent trial of the case one School Board member (Dr. Virgil Matthews) testified that the records with reference to Plaintiff's dismissal proceedings had been expunged. This was disputed by the Plaintiff and the Trial Court directed that the parties make this determination at a recess which resulted in a later stipulation at the trial that the records concerning the charges and dismissal concerning Staton were expunged in July of 1980. The Trial Court after the trial of this cause entered its Memorandum Opinion on March 16, 1981

(appearing in the Appendix to Petitioner's Brief at 11a), and stated in connection with damages App. 20a that:

> Plaintiff must prove that the Defendant's denial of Plaintiff's right to procedural due process caused the injuries complained of in order for Plaintiff to recover the damages he seeks herein. The Court, as the factfinder in this case, must separate the consequences of any Board actions that are justified or allegations that are true. . . . In this connection, the Court noted in its previous Memorandum Opinion in Case No. 73-112-C that the transcript of the School Board hearing on Plaintiff's dismissal contained evidence which could amount to a willful neglect of duty and incompetence on the part of the Plaintiff in the judgment and discretion of the School Board. Additionally, evidence produced at the trial of this matter indicated the various problems within the Defendant District, including financial problems, problems arising out of a teacher evaluation plan the Board directed Plaintiff to institute, a teacher's strike and problems in implementing a school desegregation plan, were directly attributable in varying degrees to Plaintiff's actions or omissions as Superintendent of the Defendant District and further supports the Board's decision. Therefore, the Court determines that the Board's decision to terminate Plaintiff was justified.

The Circuit Court affirmed this decision stating that the Supreme Court has held that a Plaintiff in a § 1983 action of this type must prove that the damages alleged were caused by the procedural due process deficiencies, and not by justified deprivation and held that the District Judge's finding that damages suffered by Staton were caused by a justified discharge, rather than by the procedural due process violations, is not clearly erroneous. Staton's Petition for Rehearing was denied on October 7, 1986, resulting in this Petition.

SUMMARY OF ARGUMENT

All of Petitioner's arguments are predicated on his assertions that the Trial Court would not allow a trial on the charges of incompetence and willful neglect of duty but in fact made findings to that effect and that the Circuit Court likewise made such findings. He complains that the Circuit Court in the earlier case required the School District to make findings of fact and that the School District "refused" to make such findings. Respondent's argument is that the Circuit Court required the records with reference to the charges against Petitioner and the removal procedings to be expunged and that if the School District chose to go forward with the dismissal, findings of fact would be necessary. The School District in fact expunged the records and opted not to proceed further with the dismissal but to pay the Petitioner the balance due on his contract. The Trial Court's determination that the evidence disclosed that the action of the School District was justified in making the charges it did was not for the purpose of determining whether Petitioner was guilty of those charges but was for the purpose of determining whether the damages Petitioner claimed were a result of the deprivations. Petitioner is not entitled to a trial on the merits of the charges against him because there are no charges pending. The decision of the Trial Court after hearing all of the evidence was proper and the Circuit Court after reviewing the record and all the evidence affirmed the Trial Court.

Respondent further asserts that Petitioner has made no claim in his Petition for Writ of Certiorari sufficient to bring this case within any of the standards set forth in Rule 17 of the Supreme Court Rules. The Petitioner makes no objection with reference to the individual defendants. Therefore, no response is deemed necessary as to them; however, the individual Defendants adopt the other arguments in this Brief with reference to their liability.

ARGUMENT

I. RESPONSE TO PETITIONER'S ARGUMENTS

Respondent's reasons why a Writ of Certiorari should be denied will be set out by first responding to the arguments presented by Petitioner and then presenting additional reasons why the Petition should be denied.

A. First Amendment Issue

The prior holdings of the Trial Court and the Circuit Court, the Pretrial Order, the decision of the Trial Court in the second trial and the decision by the Court of Appeals have heretofore been set out in the Statement of the Case and will not be restated here. Suffice it to say that the Circuit Court did not rule on the merits of the cause as stated by Petitioner but merely affirmed the Trial Court where the Trial Court made a ruling that the School District would have been justified under the facts in dismissing Staton had they elected to do so and therefore the damages which Staton sought were not a result of the constitutional deprivations. The records concerning the charges and dismissal concerning Staton were expunged in July of 1980 pursuant to the mandate of the Circuit Court and the Order of the Trial Court. The Circuit Court in its first Opinion merely stated that:

> The Board of the Defendant District *may* then consider, *if it wishes*, making a new finding on the charges to determine whether the earlier removal on them was proper. (Emphasis added.)

The School District filed its Response to the Order of January 12, 1980, informing the Court "that it has determined not to proceed with the removal procedures against the Plaintiff." App. 8a. Both the Trial Court and the Circuit Court followed the case of *Carey* v. *Piphus*, 435 U.S. 247, 98 S.Ct. 1042, 55 L.Ed.2nd 252 (1978), in determining whether the damages complained of by Petitioner resulted from the lack of procedural due process. The Court did not make a determination with

reference to whether Staton was or was not properly fired but merely determined that the evidence was sufficient to justify the School District in taking such action against Petitioner if procedural due process had been afforded to him.

The case of *Mount Healthy City School District* v. *Doyle*, 429 U.S. 274 (1977), cited by Petitioner is not applicable because that case involved a school official who was in fact fired, affording all of the procedural due process, but for improper reasons.

B. Liberty Issue

Petitioner asserts that once liberty right is found, the burden is placed on the Defendant to provide a hearing before the body which raised the charges. He then asserts that the Trial Court *ordered* the School Board to respond to the Mandate of the Circuit Court and that the School District not only *refused* to find the facts, their response, which is a part of the record, informed the Court that the necessary evidence and witnesses were not available and they did not wish to try the merits of the charges. Similar statements by Respondent appear in several other places in his Petition. The Response of the School District is included herein as Appendix 8a and merely informs the Court that it has determined not to proceed with removal procedures. There was never a refusal to find the facts by the School District but merely a determination not to pursue a dismissal, to pay the balance due on his contract and to expunge the record with reference to all proceedings concerning the charges and attempted dismissal.

The Petitioner had the burden and the opportunity to prove his damages and that the damages alleged were a result of the deprivations. By stipulation all of the testimony in the earlier trial was made a part of the record in this trial and, in addition, Staton called 12 witnesses.

He was not required to prove that the charges were false but had the burden of proving his damages. Under the *Carey* v. *Piphus* case, supra, the Court necessarily determined that the damages did not result from the deprivations.

C. Burden to Come Forward

Petitioner asserts that under *Carey* v. *Piphus*, supra, the Defendant School Board had the burden to come forward and prove that the decision on the merits of the charges was justified. The obvious answer to this is that the School District elected not to proceed further with the dismissal but to merely pay the balance due on his contract. It was necessary then to make any findings of fact. The statement that the School District virtually stipulated that there was no cause for dismissal when it agreed that they owed Staton for the rest of his contract is an improepr statement not supported by the facts as is the statement that the School District informed the Trial Court that it would not and could not marshall the evidence and witnesses. It is true that the School District called no witnesses at the trial because it was felt none were necessary.

As heretofore stated, Staton had the burden to prove that his damages resulted from the deprivations and under the *Carey* case, supra:

> An award of damages for injuries caused by the suspension of students not accorded procedural due process would constitute a windfall rather than compensation if the school officials proved that the students would have been suspended if a proper hearing has been held.

By analogy it was necessary for the Court to make a determination on the damage question that the facts would have justified a dismissal of Staton if the proper procedure had been followed and the Court made such a finding after hearing all of the evidence.

D. Findings of Facts

The assertions by Petitioner under this heading are all substantially the same as those heretofore discussed and the responses to such previous statements by Petitioner are adopted in response to his assertions under this heading.

E. Clearly Erroneous Standard

Petitioner again makes many of the same arguments as previously set forth but in addition sets forth (from his viewpoint) some of the evidence produced at the trial and then states:

> The circuit surprised by ruling on the merits of the cause by claiming the Plaintiff did not make a showing of public concern in relation to the alleged protected activity,

citing Appendix 6a (Footnote 2). A review of his Appendix 6a (Footnote 2), actually states as follows:

> Staton maintains at various points in his Brief that his discharge somehow implicated his First Amendment rights concerning his implementation of the desegregation plan. He also argues that the District Court failed to make required findings in connection with his First Amendment claim. We have examined the record in detail and conclude that Station has failed to meet his burden of proving the existence of any constitutionally protected conduct that was a motivating factor in the Board's decision to discharge and not rehire him.

The Court's attention is directed to Footnote 3 of the Circuit Court's Opinion which appears at the bottom of page 8a in the Appendix to Petitioner's Petition in which the Circuit Court stated as follows:

> In addition, Staton's claim for damages accruing after the expiration of his employment contracts must be viewed in the context of his alleged property interest in reappointment as superintendent of

schools. We held in our earlier opinion that Staton had a property interest by virtue of his employment contracts which had 1 5/12 years to run when he was discharged. 552 F.2d at 911. He has no property interest beyond the expiration date of his contracts because a school superintendent does not enjoy tenure under Oklahoma law. *Board of Education* v. *Morris*, 656 P.2d 258, 261 (Okla. 1983) ("We hold that it was never the intention of the legislature to afford tenure to superintendents."); see also *Patterson* v. *Ramsey*, 552 F.2d 117, 118 (per curiam) (4th Cir. 1977) (discharged school superintendent "had no tenure and therefore no property interest in his job"). Moreover, Staton does not allege that a "de facto tenure" system gave him a "legitimate claim of entitlement" to reappointment. *Board of Regents* v. *Roth*, 408 U.S. 564, 577 (1972); *Perry* v. *Sindermann*, 408 U.S. 593, 600 (1972); see also *Asbill* v. *Housing Authority of Choctaw Nation*, 726 F.2d 1499, 1501-04 (10th Cir. 1984).

Neither this argument nor the other arguments presented by Petitioner present a basis for the granting of a Writ of Certiorari.

II. NO CAUSE FOR ISSUING THE WRIT HAS BEEN SHOWN

Rule 17 of the Supreme Court Rules provides that a review on Writ of Certiorari is not a matter of right, but of judicial discretion, and will be granted only when there are special and important reasons therefor. The rule also provides that the following, while neither controlling or fully measuring the Court's discretion, indicate the character of reasons that will be considered:

(a) When a Federal Court of Appeals has rendered a decision in conflict with the decision of another Federal Court of Appeals on the same matter; or has decided a federal question in a way in conflict with the state of last resort; or has so far departed from the ac-

cepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower Court, as to call for an exercise of this Court's power of supervision.

Petitioner has made no claim in his Petition for Writ of Certiorari that brings this case within any of the standards set forth in Rule 17 (Supra). The thrust of his case seems to be that he disagrees with the Trial Court's interpretation of what the evidence meant and he is not satisfied with the election by the School District to not proceed against him on the charges originally brought. He confuses the Court's findings in the Court's determination of whether damages should be allowed properly with his asserted position that the Court is actually conducting a trial on those charges. He had the burden and the opportunity to prove that the damages he alleged resulted from the deprivations and was dissatisfied with the Trial Court's finding, as reviewed and affirmed by the Circuit Court, that his own evidence showed a sufficient basis for the School Board to have dismissed him if the proper procedure had been followed. His property interest was no longer an issue because the School District opted to not proceed further and to admit liability for the balance of his contract. He had no property interest beyond the expiration date of the contract because a School Superintendent does not enjoy tenure under Oklahoma law. *Board of Education* v. *Morris*, 656 P.2d 258 (Okla. 1983). All records with reference to the charges against him and the removal proceedings were expunged and the holding of the Trial Court that the damages were not as a result of the deprivations was sustained by sufficient evidence as reviewed by the Court of Appeals and affirmed.

CONCLUSION

Respondent has shown that Petitioner has made no claim in his Petition for Writ of Certiorari sufficient to bring this case within the standards set forth in Rule 17 of the Supreme Court Rules. He seeks a trial on the charges of incompetence and willful neglect of duty and findings of fact by the School District when the School District, at its option pursuant to the first decision of the Court of Appeals, elected not to proceed further and subsequently expunged the records with reference to the charges against Petitioner and all proceedings with reference to his attempted removal. There are no charges pending against Petitioner and Respondent admitted liability for the balance due on his contract and he has no further property interest beyond the expiration date of the contract. The Trial Court was correct in its findings that the School District would have been justified in proceeding further since that finding was necessary for the proper determination of liability of the School District for damages allegedly sustained by Petitioner. The Trial Court did not make a determination of Petitioner's guilt or innocence on those charges. The Circuit Court after reviewing the record in detail found that there was evidence sufficient to sustain the Trial Court's decision in this respect and properly affirmed the Trial Court.

The Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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Counsel for Respondents

APPENDIX

APPENDIX

APPENDIX

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

No. 73-112-C
(Consolidated)
No. 77-186-C

JON TOM STATON,

Plaintiff,

vs.

JAMES K. MAYES, MOODY WADE, MIKE MOORE and INDEPENDENT SCHOOL DISTRICT NUMBER 20, OF MUSKOGEE COUNTY, OKLAHOMA,

Defendants.

[Filed Sept. 21, 1979]

PRE-TRIAL ORDER

This case came on for pre-trial July 18, 1979, Plaintiff appearing by Kay Wilson, Jr., the Defendants, James K. Mayes, Moody Wade and Mike Moore, appearing by James K. Mayes, and the Defendant, Independent School District Number 20, Muskogee County, Oklahoma, appearing by A. Carl Robinson of Robinson, Locke & Gage.

Plaintiff seeks relief under 42 U.S.C.A. Section 1983, by contending that under color of statute of the State of Oklahoma, the Defendants caused the Plaintiff to be sub-

jected to the deprivation of rights secured by the Constitution and that the Defendants are liable to the Plaintiff for redress.

PLAINTIFF'S CONTENTIONS

1. Plaintiff has been injured by Defendants acting under color of state law.

2. Plaintiff has been deprived of Constitutional rights to liberty and property without due process of law for the following reasons:

a. He was not afforded any unbiased tribunal;

b. Failure of the Defendants to make findings of fact and conclusions thereon;

c. Plaintiff is entitled to recover under 42 U.S.C.A. 1983 against the individual Defendants upon meeting test of *Wood* v. *Strickland*, 420 US 332, 95 SC 992, 43 Law Ed 2d 214;

d. Plaintiff is entitled to recover under 42 U.S.C.A. 1983 against Defendant District which is a person under the test of *Monell* v. *Department of Social Services*, 436 US 658, 56 Law Ed 2d 611, 98 SC 2018.

DEFENDANTS' CONTENTIONS

1. The School District has no liability beyond unexpired contract wages.

2. Individual Defendants are not liable under *Wood* v. *Strickland*, who acted in reliance upon existing law, and in good faith.

3. The District is not liable beyond unexpired contract because the record has been expunged.

4. Reinstatement is not available as an equitable measure for the Court.

5. The District is entitled to credit against contract wages for wages paid or which could have been paid from other employment.

RELIEF SOUGHT

1. Loss of Earnings.

   a. Unexpired portion of contract $32,291.61.

   b. Damage to earning power, $480,708.38.

2. Loss of experience and professional growth, $100,000.00.

3. Pain and suffering from harrassment, $100,000.00.

4. Expense in seeking other employment, court costs and attorney fees, $60,000.00.

5. Punitive damages, $25,000.00.

6. Loss of participation in retirement program, $25,000.00.

7. Loss of liberty to practice chosen profession, $100,000.00.

ADMISSIONS

The Defendant, School District, admits liability for $32,291.62, the unexpired portion of the contract and denies all other damages.

STIPULATIONS

The record of the previous trial and all exhibits introduced at previous trial shall be in evidence and both parties may supplement evidence heretofore admitted.

BRIEFS

Plaintiff will submit briefs within thirty (30) days as follows:

1. Damages including amounts claimed on contract balance, reduced future earnings, harrassment, loss of professional growth, and loss of retirement program.

2. Brief on punitive damage including amount.

3. Brief as to right to attorney fee.

Defendants' brief will be submitted within thirty (30) days showing:

1. Effect of invalidation of Board decision and expungement.

All briefs shall recite the facts relied upon and applicable law sustaining the proponent's position.

RESPONSE BRIEF

Each party shall have thirty (30) days from receipt of principal brief of opponent to file response brief to opponent's principal brief.

/s/ Fred Daugherty
United States
District Judge

APPROVED:

_____
Attorney for Plaintiff

/s/ (Illegible)
Attorney for Individual
Defendants

/s/ A. Carl Robinson
Attorney for Defendant
District

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

No. 73-112-C
(Consolidated)

JON TOM STATON,

Plaintiff,

vs.

JAMES K. MAYES, MOODY WADE, MIKE MOORE and INDEPENDENT SCHOOL DISTRICT NUMBER 20, OF MUSKOGEE COUNTY, OKLAHOMA,

Defendants.

No. 77-186-C

JON TOM STATON,

Plaintiff,

vs.

JAMES K. MAYES, MOODY WADE, MIKE MOORE and INDEPENDENT SCHOOL DISTRICT NUMBER 20, OF MUSKOGEE COUNTY, OKLAHOMA,

Defendants.

[Filed Sept. 21, 1979]

ORDER

The Court conducted a pretrial conference herein on March 28, 1978 at McAlester, Oklahoma. A pretrial conference order was directed by the Court to be prepared and filed herein with reference to said conference but this has not been accomplished. At the request of the attorneys, further pretrial conferences were conducted by the Court on June 20, 1979 and July 18, 1979. A supplemental pretrial order was prepared regarding the

June 20, 1979 pretrial conference but was not filed as the attorneys could not agree on the same and one Defendant refused to sign a prepared order. At the July 18, 1979 pretrial conference, the Court devoted a considerable amount of time for the parties to state their contentions and defenses herein and then the Court ordered briefs on the matter of appropriate relief herein. The attorneys again have failed to present the Court an agreed pretrial conference order, the Plaintiff refusing to sign a prepared order with reference to this conference. This pretrial order, which has been presented to the Court without Plaintiff's approval, correctly sets forth Plaintiff's contentions and Defendants' contentions as respectively stated at the conference of July 18, 1979 and the Court's order as to requested briefs as well as admissions and stipulations made at such conference.

Kay Wilson, Jr., Plaintiff's counsel of record herein, under date of August 13, 1979 requested leave to withdraw from the case. The Plaintiff, pro se, on the same date filed a Motion For Pre-Trial Continuance which in effect requests a further pretrial conference.

As the matter now stands the Court has conducted three pretrial conferences without being able to get a pretrial conference order on file with reference to any of the three conferences; Plaintiff's counsel requests to withdraw; Plaintiff pro se requests another pretrial conference and the briefing schedule ordered at the last pretrial conference has not been concluded, though the initial briefs have been filed.

In these circumstances the Court enters the following orders:

1. As the pretrial order presented to the Court with reference to the July 18, 1979 conference correctly reflects the contentions, admissions and stipulations made by the parties at such conference and the Court's briefing order, and as the parties cannot agree on the content of

the Order, the Court adopts the same as the order of the Court on the pretrial conference held herein on July 18, 1979 and orders the Clerk to file the same herein. See Wright & Miller, *Federal Practice and Procedure*, Chapter 4, Section 1526.

2. The request of Kay Wilson, Jr. to withdraw as Plaintiff's counsel herein is granted, it being assumed that Plaintiff concurs in this requested withdrawal as it is stated, though incorrectly, in Plaintiff's pro se Motion For Pre-Trial Continuance filed herein of even date with said requested withdrawal that his attorney has withdrawn as counsel for Plaintiff herein. The Court further assumes that Kay Wilson, Jr., Plaintiff's attorney of record herein, in view of the contents of his request for leave to withdraw from the case, lays no claim for attorney's fees herein.

3. Plaintiff is ordered to obtain new counsel herein and cause him to enter his written appearance with the Clerk of this Court within 20 days from this date or if Plaintiff elects and desires to represent himself herein that he file a written statement with the Clerk to that effect and do so within the above 20-day period.

4. Plaintiff's pro se request for a further pretrial conference herein is denied without prejudice to reconsideration should Plaintiff engage new counsel and such counsel presents reasons deemed valid by the Court for a further pretrial conference herein.

5. The response briefs due herein within 30 days from receipt of the initial briefs are extended until 35 days following the date hereof.

It is so ordered this 21st day of September, 1979.

/s/ Fred Daugherty
United States
District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

No. 73-112-C
(Consolidated)

JON TOM STATON,

Plaintiff,

vs.

JAMES K. MAYES, MOODY WADE, MIKE MOORE and INDEPENDENT SCHOOL DISTRICT NUMBER 20, OF MUSKOGEE COUNTY, OKLAHOMA,

Defendants.

No. 77-186-C

JON TOM STATON,

Plaintiff,

vs.

JAMES K. MAYES, MOODY WADE, MIKE MOORE and INDEPENDENT SCHOOL DISTRICT NUMBER 20, OF MUSKOGEE COUNTY, OKLAHOMA,

Defendants.

[Filed Jan. 24, 1978]

RESPONSE OF INDEPENDENT SCHOOL DISTRICT NUMBER 20 OF MUSKOGEE COUNTY, OKLAHOMA TO ORDER OF JANUARY 12, 1978

The Board of Education of Independent School District Number 20 of Muskogee County, Oklahoma com-

plies with the directions of the Court in the Order of January 12, 1978, and herewith informs the Court that it has determined not to proceed with the removal procedures against the plaintiff.

INDEPENDENT SCHOOL DISTRICT,
NUMBER 20 OF MUSKOGEE COUNTY,
OKLAHOMA

Defendant

By /s/ Andrew Wilcoxen
ANDREW WILCOXEN
Attorney for Defendant

CERTIFICATE OF MAILING

I, Andrew Wilcoxen, hereby certify that on the 24th day of January, 1978 I mailed a true and correct copy of the within and foregoing Response of Independent School District Number 20 of Muskogee County, Oklahoma to Order of January 12, 1978 to Mr. Kay Wilson, Jr., 319 Court Street, Muskogee, Oklahoma 74401, attorney for the plaintiff, with postage thereon fully prepaid.

/s/ Andrew Wilcoxen